

IN THE COURT OF CRIMINAL APPEALS OF TENNESSEE

AT KNOXVILLE

DECEMBER SESSION, 1996

FILED

March 20, 1997

Cecil Crowson, Jr.
Appellate Court Clerk

TARVIN J. ROBINSON,)

Appellant,)

V.)

STATE OF TENNESSEE,)

Appellee.)

C.C.A. NO. 03C01-9510-CR-00317

HAMILTON COUNTY

HON. STEPHEN M. BEVIL, JUDGE

(POST-CONVICTION)

ON APPEAL FROM THE JUDGMENT OF THE
CRIMINAL COURT OF HAMILTON COUNTY

FOR THE APPELLANT:

MICHAEL T. CIRCEO
Attorney for Appellant
Parklon Building
4548 Brainerd Road
Chattanooga, TN 37411

FOR THE APPELLEE:

CHARLES W. BURSON
Attorney General & Reporter

ELIZABETH T. RYAN
Assistant Attorney General
450 James Robertson Parkway
Nashville, TN 37243-0493

BILL COX
District Attorney General

DAVID DENNY
Assistant District Attorney General
600 Market Street
Courts Building
Chattanooga, TN 37402

OPINION FILED _____

AFFIRMED

THOMAS T. WOODALL, JUDGE

OPINION

The Petitioner appeals as of right from the trial court's denial of his petition for post-conviction relief. The Petitioner was convicted of theft at a jury trial in the Hamilton County Criminal Court. He appealed his conviction to this court, but was unsuccessful. State v. Tarvin Jernaud Robinson, No. 03-C-01-9107-CR-229, Hamilton County (Tenn. Crim. App., Knoxville, filed Jan. 13 1992). His application for permission to appeal was denied by the Tennessee Supreme Court on March 4, 1992. The trial court dismissed the petition for post-conviction relief following an evidentiary hearing. We affirm the judgment of the trial court.

The Petitioner argues two issues in his appeal. The first issue is whether the trial court committed error in finding that the Petitioner's attorney rendered effective assistance of counsel. The second issue is that the trial court failed to pass on all issues presented.

Even though the trial court's order reflects that an evidentiary hearing was held in this matter, neither a verbatim transcript of the evidentiary hearing, pursuant to Rule 24(b) of the Tennessee Rules of Appellate Procedure, nor a statement of the evidence, pursuant to Rule 24(c) of the Tennessee Rules of Appellate Procedure, has been included in the record submitted to this court on appeal. It is the duty of an appellant to prepare a record which conveys a fair, accurate and complete account of what transpired in the trial court with respect to the issues which form the basis of his appeal. T.R.A.P. 24(b); State v. Bunch, 646 S.W.2d 158, 160 (Tenn. 1983); State v. Hopper, 695 S.W.2d 530, 537 (Tenn.

Crim. App. 1985). When the record does not contain proceedings relevant to an issue, this court is precluded from addressing the issue. State v. Hoosier, 631 S.W.2d 474, 476 (Tenn. Crim. App. 1982); State v. Morton, 639 S.W.2d 666, 668 (Tenn. Crim. App. 1982); State v. Griffith, 649 S.W.2d 9, 10 (Tenn. Crim. App. 1982); Hopper, 695 S.W.2d at 537. Also, this court must conclusively presume that the evidence supports the findings and judgment of the trial court. State v. Jones, 623 S.W.2d 129, 131 (Tenn. Crim. App. 1981); State v. Baron, 659 S.W.2d 811, 8815 (Tenn. Crim. App. 1983); State v. Taylor, 669 S.W.2d 694, 699 (Tenn. Crim. App. 1983).

Because either a transcript of the evidentiary hearing or a statement of the evidence is imperative to rule on the Petitioner's issues, we are unable to address these issues and must presume that the judgment of the trial court is correct.

The judgment of the trial court is affirmed.

THOMAS T. WOODALL, Judge

CONCUR:

DAVID H. WELLES, Judge

DAVID G. HAYES, Judge